

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU

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EDWARD W. LANCASTER,

INDEX # 008384/2011

Plaintiff,

VERIFIED ANSWER

-against-

THE FREEPORT HOUSING AUTHORITY, NAUTILUS
DEVELOPMENT CORP, and THE BOARD OF
DIRECTORS OF THE FREEPORT HOUSING AUTHORITY,

Defendants.

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PLEASE TAKE NOTICE that Defendants, by their attorneys Wenig Saltiel & Johnson LLP, hereby interposes the following Answer to the Plaintiff's Complaint:

1. Deny possessing sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraphs 1, 23 and 24 of the Complaint.
2. Deny the allegations contained in paragraphs 2, 3, 4, 5, 6, 7, 8, 14, 15, 16, 17, 18, 19, 22, 25, 26, 27, 30, 31, 32, 33, 34, 35, 36, 37, 38, 40, 41, 43, 44, 45, 46 and 47 of the Complaint.
3. Deny the allegations contained in paragraphs 10, 11, 12, 13, 21 and 29 of the Complaint and refer the Court to the written agreement referenced therein.

4. As and for a response to paragraphs 9, 20, 28, 39 and 42 of the Complaint, Defendants repeat and reiterate, with the same force and effect, the responses set forth above.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

5. The Complaint fails to state a cause of action upon which relief can be granted.

AS AND FOR A SECOND AFFIRMATIVE

6. Plaintiff lacks personal jurisdiction over the Defendants.

AS AND FOR A THIRD AFFIRMATIVE

7. Plaintiff's claims are barred by the doctrine of laches.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

8. Plaintiff's claims are barred by the doctrine of unclean hands.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

9. Plaintiff's claims are barred by the doctrine of waiver and/or estoppel.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

10. Plaintiff lacks standing to maintain the instant proceeding.

AS AND FOR AN SEVENTH AFFIRMATIVE DEFENSE

11. Plaintiff's claims are time barred to the extent that they were not filed within the applicable statutes of limitations and/or administrative filing periods.

AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE

12. Plaintiff's claims are barred to the extent that Plaintiff failed to timely and properly exhaust all necessary administrative, statutory and/or jurisdictional prerequisites for the commencement of this action.

AS AND FOR AN NINTH AFFIRMATIVE DEFENSE

13. Plaintiff's claims must be dismissed because Plaintiff unreasonably failed mitigate his damages, take advantage of preventative or corrective opportunities or to otherwise avoid or mitigate the alleged damage.

AS AND FOR AN TENTH AFFIRMATIVE DEFENSE

14. Plaintiff's claims must be dismissed because Plaintiff was unauthorized to incur the charges sought to be reimbursed.

AS AND FOR AN ELEVENTH AFFIRMATIVE DEFENSE

15. Plaintiff's claims must be dismissed because Plaintiff's claims are based on erroneous, false, fabricated and/or incorrect documentation.

AS AND FOR AN ELEVENTH AFFIRMATIVE DEFENSE

16. Plaintiff's claims must be dismissed because this Court lacks *in personam* jurisdiction over any Defendant based on Plaintiff's failure to properly serve the Summons and Complaint in this action.

AS AND FOR A FIRST COUNTERCLAIM

17. Defendants repeat the allegations contained in paragraphs 1 through 16 above as if fully set forth at length herein.

18. Plaintiff purported to act as Executive Director of Defendant Freeport Housing Authority ("FHA"), a full time position, while also purporting to be employed in a full time capacity by Defendant Nautilus Development Corp.
19. Holding said positions was a clear conflict of Plaintiff's interest.
20. Plaintiff never obtained any waiver or similar authorization to serve in the aforementioned duel capacity.
21. Plaintiff therefore held the aforementioned positions wrongfully, and was not entitled to be paid as an employee for both simultaneously.
22. Further, Plaintiff was not entitled to accrue paid sick and vacation days for both positions to be paid upon his termination of employment with Defendant Freeport Housing Authority.
23. Based on the foregoing, Plaintiff is justly indebted to FHA for an amount equal to the salary he received from FHA while he maintained employment by Nautilus Development Corp.
24. FHA is entitled to judgment against Plaintiff in a sum to be determined at trial but no less than \$1,000,000.00.
25. Based on the foregoing, FHA demands judgment against Plaintiff in the sum of \$1,000,000.00 with interest thereon from February 1, 2011.

AS AND FOR A SECOND COUNTERCLAIM

26. Defendants repeat the allegations contained in paragraphs 1 through 25 above as if fully set forth at length herein.
27. During the period of Plaintiff's employment by FHA, Plaintiff withdrew funds from FHA account(s) and deposited them in account(s) to which he was the sole signatory, without the knowledge or authorization from the FHA.
28. The foregoing was in direct contravention of his duties as an employee of the FHA and allowed him to surreptitiously manipulate the books and records of the FHA.
~~further Plaintiff wrote checks from FHA accounts and used FHA monies for personal expenses unrelated to the FHA without the FHA's knowledge or authorization.~~
30. Said actions by Plaintiff were in furtherance of a scheme to systematically defraud the FHA and convert FHA assets for Plaintiff's personal gain.
31. During the course of Plaintiff's employment with the FHA, Plaintiff stole an as of yet undetermined amount of money from the FHA.
32. Said amount is believed to be not less than \$100,000.00.
33. Based on the foregoing, Plaintiff is justly indebted to FHA for an amount equal to the amount he converted from FHA accounts for his own personal use.

34. FHA is entitled to judgment against Plaintiff in a sum to be determined at trial but no less than \$100,000.00.
35. Based on the foregoing, FHA demands judgment against Plaintiff in the sum of \$100,000.00 with interest thereon from February 1, 2011.

AS AND FOR A THIRD COUNTERCLAIM

36. Defendants repeat the allegations contained in paragraphs 1 through 35 above as if fully set forth at length herein.
37. Because Plaintiff knowingly, intentionally and systematically defrauded [REDACTED] FHA is entitled to punitive damages in the amount of \$200,000.00.
38. Based on the foregoing, FHA demands judgment against Plaintiff in the sum of \$200,000.00 with interest thereon from February 1, 2011.

AS AND FOR A FOURTH COUNTERCLAIM

39. Defendants repeat the allegations contained in paragraphs 1 through 37 above as if fully set forth at length herein.
40. During Plaintiff's employment with the FHA, Plaintiff opened a business rewards credit card account in FHA's name but associated the account with his own social security number instead of the FHA's employer identification number.
41. In that way, Plaintiff made himself the sole authorized user on the account.

42. Plaintiff made many FHA business related charges to the above referenced credit card, earning rewards in the form of at least \$850.00 in cash reimbursements for the FHA.
43. Plaintiff, as the only authorized user on the account, cashed the aforementioned rewards in the FHA's name and converted same for personal use.
44. FHA is therefore entitled to judgment against Plaintiff in a sum to be determined at trial but believed to be no less than \$850.00.
45. Based on the foregoing, FHA demands judgment against Plaintiff in the sum of \$1000.00 with interest thereon from February 1, 2011.

AS AND FOR A FIFTH COUNTERCLAIM

46. Defendants repeat the allegations contained in paragraphs 1 through 44 above as if fully set forth at length herein.
47. Plaintiff purported to act as Executive Director FHA, a full time position, while also purporting to be employed in a full time capacity by Defendant Nautilus Development Corp.
48. Holding said positions was a clear conflict of Plaintiff's interest.
49. Plaintiff never obtained any waiver or similar authorization to serve in the ~~aforementioned dual capacity~~.
50. Plaintiff therefore held the aforementioned positions wrongfully, and was not entitled to be paid as an employee for both simultaneously.

51. Based on the foregoing, Plaintiff is justly indebted to Defendant Nautilus Development Corp. for an amount equal to the compensation he received from Defendant Nautilus Development Corp. while he maintained employment by the Freeport Housing Authority.
52. Defendant Nautilus Development Corp. is entitled to judgment against Plaintiff in a sum to be determined at trial but no less than \$20,000.00.
53. Based on the foregoing, Defendant Nautilus Development Corp. demands judgment against Plaintiff in the sum of \$20,000.00 with interest thereon from February 1, 2011.

AS AND FOR A SIXTH COUNTERCLAIM

54. Defendants repeat the allegations contained in paragraphs 1 through 52 above as if fully set forth at length herein.
 55. Upon the termination of Plaintiff's employment with FHA, Plaintiff wrongfully absconded with certain electronic equipment belonging to Defendant Freeport Housing Authority and despite demands for the return of same, has willfully failed to do so.
 56. Based on the foregoing, Plaintiff is justly indebted to FHA for an amount to be determined at trial but no less than \$500.00.
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WHEREFORE, Defendant demands judgment against Plaintiff as follows:

- a. Dismissal of the complaint in its entirety with prejudice; and
- b. Judgment on the first counterclaim in the sum of \$1,000,000.00; and
- c. Judgment on the second counterclaim in the sum of \$100,000.00; and
- d. Judgment on the third counterclaim in the sum of \$200,000.00; and
- e. Judgment on the fourth counterclaim in the sum of \$850.00; and
- f. Judgment on the fifth counterclaim in the sum of \$20,000.00; and
- g. Judgment on the sixth counterclaim in the sum of \$500.00; and
- i. Judgment for costs and expenses on all causes of action and counterclaims; and
- ii. Such other and further relief as may be just and proper.

Dated: Brooklyn, New York
September 23, 2011

Yours, Etc.,



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